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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,010	10/06/2000	William W. Smith III	PSTM0002/MRK	9819

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EXAMINER

COSIMANO, EDWARD R

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/684,010

Applicant(s)

SMITH ET AL.

Examiner

Edward R. Cosimano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/6/00 & 4/26/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Applicant should note the changes to patent practice and procedure:
 - A) effective December 01, 1997 as published in the Federal Register, Vol 62, No. 197, Friday October 10, 1997;
 - B) effective November 07, 2000 as published in the Federal Register, Vol 65, No. 54603, September 08, 2000; and
 - C) Amendment in revised format, Vol. 1267 of the Official Gazette published February 25, 2003.
2. Applicant's claim for the benefit of an earlier filing data under 35 U.S.C. § 119(e) is acknowledged.
3. The proposed drawing correction filed April 26, 2004 has been approved.
4. The disclosure is objected to because of the following informalities:
 - A) as required by 37 CFR § 1.84(p(5)) and 37 CFR § 1.121(e) the specification lacks an explicit reference to the nature of:
 - (1) how the program proceeds after box(es):
 - (a) 3026 of fig. 36c if the inquiry is "NO" as this figure is described in the paragraph number 298 on pages 57-58 of the substitute specification filed April 26, 2004, "As depicted in Figures 36C through 36D, ... to different parties for various billing options).";
 - (b) 1163, 1168, 1169, 1172 & 1175 of fig. 39b if the inquiry is "NO" as this figure is described in the paragraphs numbers 318-326 on pages 62-64 of the substitute specification filed April 26, 2004, "Continuing with FIGS. 39A through 39C, next ... Carrier/Service in the delivery rate set 1157."; and
 - (c) 1180, 1184, 1187 & 1190 of fig. 36c if the inquiry is "NO" as this figure is described in the paragraphs numbered 326-333 on pages 64-65 of the substitute specification filed April 26, 2004, "Next 1179, the System determines ... in the delivery rate set 1157.".

In this regard, it is noted that merely mentioning either a feature or a number with out mentioning the device or operation or number or feature relies on the drawing to

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provide support for the disclosure and not to aid in the understanding of the invention, as is the purpose of the drawings (37 CFR § 1.81(a,b)).

B) the following errors have been noted in the specification:

(1) in regard to the objections to the specification noted above:

(a) in paragraph number 298 at line 7 change “3) Determine the zone,” to -3) If the weight and dimensions do not violate the carrier’s business rules, step 3026, determine the zone--.

(b) in paragraph number 318 at line 1 change “next,” to --if either the shipping timespan did not end on a Saturday, step 1163, or after step 1165,--.

(c) in paragraph number 320 at line 1 change “The System,” to -- If either the shipping timespan did not end on a Sunday, step 1168, or after step 1167, the System--.

(d) in paragraph number 322 at line 1 change “the System next” to --if either the there is not business day delivery, step 1169, or after step 1171,--.

(e) in paragraph number 324 at line 1 change “the System then,” to --if either e-mail delivery notification has not been selected, step 1172, or after step 1174, the System then--.

(f) in paragraph number 326 at line 1 change “Next 1179, the System determines,” to -Next 1179, if either verbal delivery notification has not been selected, step 1175, or after step 1178, the System determines--.

(g) in paragraph number 328 at line 1 change “the System then,” to --if either guaranteed delivery time has not been selected, step 1180, or after step 1182, the System then--.

(g) in paragraph number 330 at line 1 change “the System next,” to --if either the shipping location is not “Call for Pickup”, step 1184, or after step 1186, the System next--.

(g) in paragraph number 332 at line 1 change "The System then," to --If either residential delivery service has not been selected, step 1187, or after step 1189, the System then--.

(g) in paragraph number 333 at lines 4-5 change "1193 before proceeding," to -1193. Next, if either loss protection has not been selected, step 1190, or after step 1193, the System proceeds--.

Appropriate correction is required.

5. The specification and drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification or drawings. Applicant should note the requirements of 37 CFR § 1.74, § 1.75, § 1.84(o,p(5)), § 1.121(a)-1.121(f) & § 1.121(h)-1.121(i).

6. Claims 1-11 & 31-40 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6.1 In regard to claims 1-11 & 31-40, although on of ordinary skill at the time of the invention would known how to accomplish each of the individual recited actions/functions from the language of these claims, since, there is no clear and definite interconnection between one or more of the recited limitations of these claims, one of ordinary skill could not determine from the language of these claims whether or not they are in fact making and/or using the claimed invention. In this regard it is noted that from the language of these claims it is vague, indefinite and unclear:

A) in regard to claim 1, how the second server can perform the function of rating a request by an user, since as recited in this claim neither:

(1) a request to ship a item has not been received and hence can not be rated; nor

(2) the particular carrier of the plurality of carriers as recited in the preamble has not been specified so that the user's request may be properly rated.

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B) in regard to claim 2, how the third server can perform the function of generating a display of shipping rates on the display of an user, since as recited in this claim neither:

(1) a request to ship a item has not been received and hence can not be rated; nor

(2) the particular carrier or carriers of the plurality of carriers as recited in the preamble has not been specified so that the user's request may be properly rated; nor

(3) has the rating information been communicated to the user's display so that it may be displayed.

C) in regard to claim 3, how the third server can perform the function of obtaining tracking information, since as recited in this claim neither:

(1) a request to ship a item has not been received and hence can not be rated; nor

(2) the particular carrier or carriers of the plurality of carriers as recited in the preamble has not been specified so that the request for tracking information may be properly handled by the carrier; nor

(3) the item being shipped does not have an assigned tracking number/ID so that correct tracking may be the obtained; nor

(4) has the obtained tracking information been communicated to the user's display so that it may be displayed.

D) in regard to claim 4, and whether or not the received input information in this claim is the same information used to obtain a rating from the user's request as recited in claim 1.

E) in regard to claim 6, how the second server can perform the function of obtaining tracking information, since as recited in this claim neither:

(1) the particular carrier or carriers of the plurality of carriers as recited in the preamble has not been specified so that the request for tracking information may be properly handled by the carrier; nor

(2) the item being shipped does not have an assigned tracking number/ID so that correct tracking may be the obtained; nor

(3) has the obtained tracking information been communicated to the user's display so that it may be displayed.

F) in regard to claim 7, how the third server can perform the function of rating a request for multiple carriers, since as recited in this claim the particular carrier or carriers of the plurality of carriers as recited in the preamble has not been specified so that the request for rating information may be properly handled by the carrier.

G) in regard to claim 8, how the fourth server can perform the function of obtaining tracking information, since as recited in this claim neither:

(1) the particular carrier or carriers of the plurality of carriers as recited in the preamble has not been specified so that the request for tracking information may be properly handled by the carrier; nor

(2) the item being shipped does not have an assigned tracking number/ID so that correct tracking may be the obtained; nor

(3) has the obtained tracking information been communicated to the user's display so that it may be displayed.

H) in regard to claims 9, 31, 35 & 40 and how one of ordinary skill at the time of the invention would consider a method of operating at least two interconnected servers that are remotely concurrently accessible by client systems and receive shipping related data as performing the function of "managing shipping".

I) in regard to claim 33, how the fourth server can perform the function of generating a display of shipping rates on the display of an user, since as recited in this claim the rating information has not been communicated to the user's display so that it may be displayed.

J) in regard to claim 34, how the third and fourth servers can perform the function of obtaining tracking information, since as recited in this claim neither:

(1) the item being shipped does not have an assigned tracking number/ID so that correct tracking may be the obtained; nor

(2) has the obtained tracking information been communicated to the user's display so that it may be displayed.

K) in regard to claims 5, 7, 11, 36 & 37 and why the user's inputs are used to rate an item to be shipped, since this information is not returned to the user for use by the user.

L) in regard to claim 38 and why the user's inputs are used to determine a delivery schedule, since this information is not returned to the user for use by the user.

M) in regard to claim 40, how the third server can perform the function of obtaining tracking information, since as recited in this claim neither:

(1) the item being shipped does not have an assigned tracking number/ID so that correct tracking may be the obtained; nor

(2) has the obtained tracking information been communicated to the user's display so that it may be displayed.

6.2 Claims 9-11 & 31-38 are inoperative and therefore lack utility for the recited purpose of the disclosed and claimed invention, since:

A) it can not be seen how one of ordinary skill at the time of the invention would consider a method of operating at least two interconnected servers that are remotely concurrently accessible by client systems and receive shipping related data as performing the function of "managing shipping" as recited a in the preamble of claim 9.

For as the Court has specifically pointed out, claims must recite utility for the disclosed purpose of the invention, (General Electric Co. V. U.S., 198 U.S.P.Q. 65 (U.S. Court of Claims, 1978), Hanson v. Alpine Valley Ski Area 204 U.S.P.Q. 794 (District Court, E. D. Michigan, N. Div. 1978) and Banning v. Southwestern Bell Telephone C., 182 U.S.P.Q. 683 (SD Tex, 1974)).

6.3 Since claim 31 already recites that the central computer system comprises at least one server to that may be concurrently access and at least one server that receives user input, the references to "a first plurality" of servers devices and "a second plurality" of server devices to

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perform the same respective functions is confusing, since it is unclear why a "plurality of devices" is necessary.

6.4 Claims not specifically mentioned above, inherit the defects of the base claim through dependency. For the above reason(s), applicant has failed to particularly point out what is regarded as the invention.

7. 35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title".

7.1 Claims 1-11 & 31-40 are rejected under 35 U.S.C. § 101 because the invention as claimed is directed to non-statutory subject matter.

7.1.1 The instant claims recite a system, (claims 1-8 & 31-40), and a method comprising a series of steps to be performed on a computer, (claims 9-11), which has a disclosed practical application in the technological or useful arts. Further, the instant claims do not merely define either a computer program, a data structure, non-functional descriptive material, (i.e. mere data) or a natural phenomenon.

7.1.2 In regard to claims 1-11 & 31-40, the invention as set forth in these claims merely describes:

A) in regard to claims 1-5, at least two interconnected servers that are remotely concurrently accessible (claim 1), can rate shipping requests (claims 1 & 5), generate displays (claim 2), obtain tracking information (claim 3), and receive user input (claim 4), without either receiving a request from an user to rate an item to be shipped or returning the results of the rating to the user.

B) in regard to claims 6 & 39, at least two interconnected servers that are remotely concurrently accessible (claim 39), and can obtain tracking information (claim 6) without either receiving a request from an user to rate an item to be shipped or returning the results of the rating to the user.

C) in regard to claims 7, 8 & 40, at least two interconnected servers that are remotely concurrently accessible (claims 7 & 40), can use received user supplied

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shipping information to rate shipping requests (claims 7 & 40), and obtain tracking information (claims 8 & 40), with out either receiving a request from an user to rate an item to be shipped or returning the results of the rating to the user.

D) in regard to claims 9-11 at least two interconnected servers that are remotely concurrently accessible (claim 9), can use received user supplied shipping information to rate shipping requests (claim 9), and obtain tracking information (claim 10), with out either receiving a request from an user to rate an item to be shipped or returning the results of the rating to the user.

E) in regard to claims 31-38, at least two interconnected servers that are remotely concurrently accessible (claim 31), can rate shipping requests (claims 32 & 35-37), determine a delivery schedule (claim 38), generate displays (claim 33), obtain tracking information (claim 34), and receive user input (claims 31), with out either receiving a request from an user to rate an item to be shipped, or rating an item to be shipped or returning the results of the rating to the user.

However, the process/system as recited in these claims does not apply the result of either the claim as a whole or the manipulations of data as recited in these claims in such a manner so as to be tangibly used in a concrete manner and hence to produce a useful concrete and tangible result, that is a concrete and tangible application with in the technological or useful arts.

7.1.3 It is further noted that applicant has not recited in these claims a specific process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, which is either:

- A) altered or changed or modified by the invention recited in claims; or
- B) utilizes the result of the invention recited in these claims; or
- C) is operated or controlled by the result of the invention recited in these claims.

7.1.4 It is further noted in regard to claims 1-11 & 31-40, that as claimed applicant has not claimed:

- A) pre computer processing, since the claims fail to recited that the data, which originates from an unknown source, is manipulated or transformed/changed before it is processed; or

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B) post computer processing, since the claims fail to recited that the data which represents the result of the claimed manipulation, is neither manipulated nor used nor changed by any device after it has been processed; or

C) a practical use of the claimed invention by any physical system or device or method outside of a statement of the intended use of the claimed invention; or

D) process steps or physical acts/operations that would affect the internal operation of a computer/machine as were found to be statutory in either In re McIlroy 170 USPQ 31 (CCPA, 1971) or In re Waldbaum 173 USPQ 430 (CCPA, 1972); or

E) process steps or physical acts/operations that would be considered as going beyond the manipulation of “abstract ideas” as were found to be non-statutory in In re Warmerdam 31 USPQ2d 1754 (CAFC, 1994); or

F) a concrete and tangible practical application of either:

(1) the invention as a whole; or

(2) the final results of the manipulations/actions with in the technological or useful arts;

note In re Sarkar 200 USPQ 132 (CCPA, 1978) where the process step of “constructing said obstruction within the actual open channel at the specified adjusted location indicated by the mathematical model” was held to be so tenuous connected to the remaining process steps as to not be a process with in the scope of 35 U.S.C. § 101.

Hence, the invention of claims 1-11 & 31-40 is merely directed to an hypothetical mental exercise that manipulates an abstract idea of a central computer system that uses a number of programmed servers to manipulate numbers regarding the tasks associated with providing various shipping related functions with out providing the results to the user and therefore is with out a claimed concrete and tangible practical application of the abstract idea, (note In re Beauregard 35 USPQ2d 1383 (CAFC 1995) and the associated claims of U.S. Patent 5,710,578; and State Street Bank & Trust Co. v. Signature Financial Group Inc. 47 USPQ2d 1596 (CAFC 1998)).

7.1.5 It is further noted that the type/nature of either the data or the calculated numbers does not affect the operation of the claimed invention and hence are considered to be non function

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descriptive material, (note In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)).

7.1.6 In practical terms, claims define nonstatutory processes if they:

A) consist solely of mathematical operations without some claimed practical application (i.e., executing a “mathematical algorithm”); or

B) simply manipulate abstract ideas, e.g., a bid (Schrader, 22 F.3d at 293-94, 30 USPQ2d at 1458-59) or a bubble hierarchy (Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759),

without some claimed practical application of the mathematics or abstract idea.

7.1.7 In view of the above analysis claims 1-11 & 31-40, as a whole, are directed to an hypothetical mental exercise that merely manipulates mathematics or an abstract idea without a claimed concrete and tangible practical application of the mathematics or abstract idea, and hence are directed to non-statutory subject matter.

7.2 Claims 1-11 & 31-40 are rejected under 35 U.S.C. § 101 because the invention as claimed is directed to non-statutory subject matter.

7.2.1 As set forth by the Court in:

A) In re Musgrave 167 USPQ 280 at 289-290 (CCPA 1970), “We cannot agree with the Board that these claims (all the steps of which can be carried out by the disclosed apparatus) are directed to non-statutory processes merely because some or all of the steps therein can also be carried out in or with the aid of the human mind or because it may be necessary for one performing the process to think. All that is necessary, in our view, to make a sequence of operational steps a statutory “process” within 35 U.S.C. 101 is that it be in the technological arts so as to be in consonance with the Constitutional purpose to promote the progress of “useful arts.” Cons. Art. 1, sec. 8.”, {emphasis added}; and

B) In re Sarkar 100 USPQ 132 @ 136-137 (CCPA 1978), echoing the Board of Appeals stated in regard to claim 14 “14. A method of locating an

obstruction in an open channel to affect flow in a predetermined manner comprising:

a) obtaining the dimensions of said obstruction which affect the parameters of flow;

b) constructing a mathematical model of at least that portion of the open channel in which said obstruction is to be located in accordance with the method of claim 1 using those dimensions obtained in step (a) above;

c) adjusting the location of said obstruction within said mathematical model until the desired effect upon flow is obtained in said model; and thereafter

d) constructing said obstruction within the actual open channel at the specified adjusted location indicated by the mathematical model.”;

and “Concerning claims 14-39 and the significance of “post-solution activity,” like building a bridge or dam, the board concluded: While it is true that the final step in each of these claims makes reference to the mathematical result achieved by performing the prior recited steps, we consider the connection to be so tenuous that the several steps recited in each claim when considered as a whole do not constitute a proper method under the statute.”, {emphasis added}.

7.2.2 Further, it is noted in regard to claims 14-39 of Sarkar, although step (d) of claim 14 of Sarkar references the result of step (c) of claim 14 of Sarkar it is clear from the language of step (c) of claim 14 of Sarkar that multiple adjustments to the location of the obstruction are required to be made until a location with the desired effect has been determined. Hence, the reference to constructing the obstruction at the “specified adjusted location” in step (d) of claim 14 of Sarkar is vague, indefinite and unclear in regard to which one of the possible multiple adjusted locations of the obstruction that were used during step (c) of claim 14 of Sarkar would be used when constructing the obstruction as required by step (d) of Sarkar. Therefore, without a clear connection between step (d) of Sarkar and the remaining steps of claim 14 of Sarkar, the Board of Appeals and the Court held that these claims were not a

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process with in the meaning of process as used in 35 U.S.C. § 101 and hence were directed to non statutory subject matter.

7.2.3 As can be seen from claims 1-11 & 31-40, these claims are directed to a series of devices for performing various functions or steps/actions/functions, which as set forth above in regard to the rejection of claims 1-11 & 31-40 under 35 U.S.C. § 112 2nd paragraph, are not clearly and definitely interconnected to one another and therefore do not provide an operative useful machine/system or method/process with in the meaning of machine or process as used in 35 U.S.C. § 101.

7.3 Claims 9-11 & 31-38 are rejected under 35 U.S.C. § 101 because the invention as claimed is directed to non-statutory subject matter, since they lack substantial and practical utility.

A) it is respectfully noted that claims 9-11 & 31-38 lack the utility of providing a managing of shipping.

In view of the above, it is considered that the invention of claims 9-11 & 31-38 lack substantial and practical utility.

7.4 Claims 1-11 & 31-40 are rejected under 35 U.S.C. § 101 because the invention as claimed is directed to non-statutory subject matter, since:

A) in regard to claims 1-11 & 31-40, these claims fail to comply with the "requirements this title, namely 35 U.S.C. § 112 2nd paragraph as set forth above.

B) in regard to claims 1-11 & 31-40, these claims fail to comply with the "requirements this title, namely 35 U.S.C. § 103 as set forth below.

8. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

8.1 Claims 1-11 & 31-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the PRNewswire release from Tulsa Oklahoma (herein after TanData™) in view of either Lowery et al (WO 97/40617) or Brendel et al (5,774,660).

8.1.1 In regard to claims 1-11 & 31-40, TanData™ discloses an internet based shipping system that comprises properly programmed system that is to be implemented by a computer network that uses a client/server architecture. When an user at one of a plurality of client computers desires to have an item rated for shipping, the user would input rating related information, for example the origin and destination zip codes, size, weight, etc.. The client computer using a common communications protocol would then format/convert the rating information into a communications packet and transmit the rating information to a rating server via a suitable communications network. After the rating server has received the rating information, the rating server would generate rating results by applying the received rating information to the rate structures of a number of different carriers. The results of the rating process at the rating server is then formatted/converted into a second communications packet and transmitted to the user at the client computer. After receiving the results of the rating process of the rating server, the client computer would appropriately display the rating results to the user. It is further noted that the system described in TanData™ also permits the user track the item being shipped by obtaining tracking data and providing the tracking data to the user as described above. It is noted that the Internet as used in TanData™ is a global communications network.

8.1.2 Although the rating system described in TanData™ is implemented using a client/server architecture, the system described in TanData™ does not disclose that the server system of the client/server network is in fact multiple computer/servers that co-operate to provide the requested information. However, in the environment of client/server networks that use the

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internet as a communications network, either Lowery et al ('617) or Brendel et al ('660) disclose that the gateway to a web site, that is the server that interfaces to the communications network, is in fact interconnected to one or more specialized servers that would provide different functions/services that have been requested from the web site by the user at the client computer. Since as taught by either Lowery et al ('617) or Brendel et al ('660) at the time of the invention, one of ordinary skill would have recognized that the common structure of a web server comprises of one or more specialized servers as taught by either Lowery et al ('617) or Brendel et al ('660), it would have been obvious to one of ordinary skill in the art at the time of the invention that the web server used by the system of TanData™ could be implemented as a one or more specialized servers that provide different functions as taught by either Lowery et al ('617) or Brendel et al ('660).

8.1.3 In regard to claim 38, since the one of ordinary skill would have recognized that the rate for shipping an item would depend in part on the delivery schedule of the carrier and the wishes of the user, it would have been obvious to one of ordinary skill in the art at the time of the invention that the system of TanData™ as implemented as taught by either Lowery et al ('617) or Brendel et al ('660) would also consider the delivery schedule of the carrier when rating an item.

9. Response to applicant's arguments.

9.1 All rejections and objections of the previous Office action not repeated or modified and repeated here in have been over come by applicant's last response.

9.2 As per the remaining objections, since a literal reconstruction of the drawings from the disclosure would not produce the instant set of drawings, applicant's arguments are non persuasive.

10. Reference number 5 on the PTO-1449 filed 18 November 2004 has not been considered, since it can not be located.

11. The shorten statutory period of response is set to expire 3 (three) months from the mailing date of this Office action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cosimano whose telephone number is (703) 305-9783. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703)-308-2702. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

12.1 The fax phone number for UNOFFICIAL/DRAFT FAXES is (703) 746-7240.

12.2 The fax phone number for OFFICIAL FAXES is (703) 872-9306.

12.3 The fax phone number for AFTER FINAL FAXES is (703) 872-9306.

01/26/05


Edward R. Cosimano
Primary Examiner A.U. 3629